

4.4.14-1 INTRODUCTION

As discussed in Chapter 4.2.1, “Land Use,” and Chapter 4.3.1, “Regional and Local Economies,” farming is vital to the local economies of both Wyoming and Livingston Counties. Farming activities occurring in the vicinity of the Project site include dairy and livestock production, feed crop production, vegetable production and other operations. In addition, Livingston County supports high concentrations of soils meeting the U.S. Department of Agriculture (USDA) definition of prime farmland and farmland of statewide importance (also referred to as “Prime and Productive” soils). The Project site is located in Letchworth State Park and includes a small area of adjacent rural land. While there is no active farming being undertaken on the Project site, including land to be acquired for the Project, the Project site is adjacent to several New York State Agricultural Districts (see **Figure 4.4.14-1**) and contains land designated by the USDA as prime farmland and farmland of statewide importance. This chapter discusses state and federal farmland regulations, existing conditions on the Project site, and the effects of the Project on farmland.

4.4.14-2 METHODOLOGY

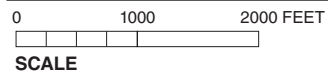
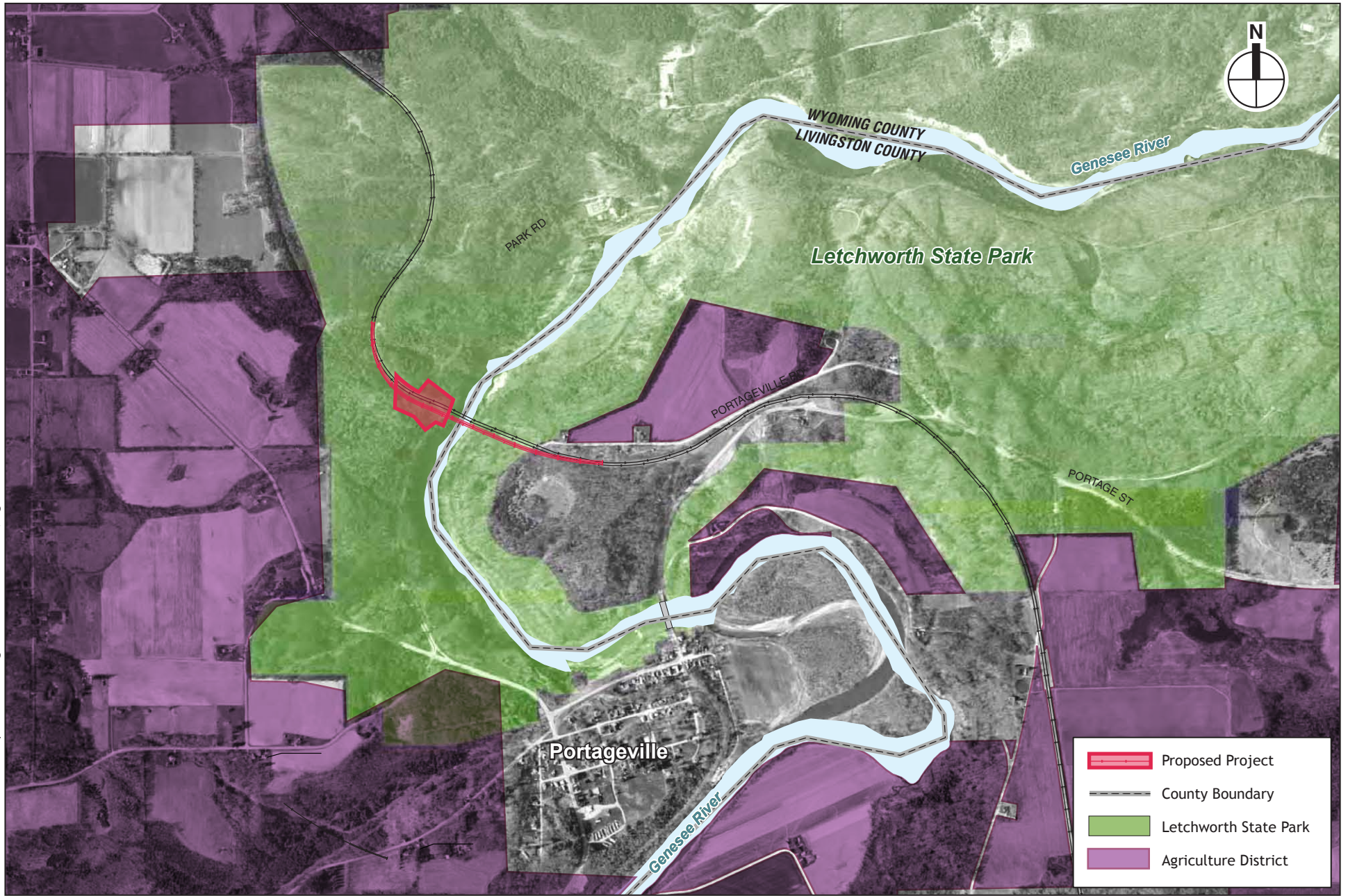
Farmlands in Livingston and Wyoming Counties are protected under both New York State and federal law.¹

Article 25-AA of New York State’s Agriculture and Markets Law “authorizes the creation of local agricultural districts pursuant to landowner initiative, preliminary county review, state certification, and county adoption.”² Agricultural districts are established to encourage the continued use of suitable farmland for agriculture, and curtail the conversion of farmland to non-agricultural uses. Under Article 25-AA, a notice of intent and an agricultural impact statement must be filed before public funds are spent on non-farm projects within an agricultural district. When applicable, these provisions require descriptions of short-term and long-term impacts of a project on agriculture, alternatives to that proposed project, and possible mitigation measures. The preliminary notice of intent and agricultural impact statements must be reviewed by the New York State Department of Agriculture and Markets and by the relevant County Agricultural Development and Farmland Protection Board.

New York State agricultural districts are created through a landowner proposal to a county legislative body, provided that owners possess at least 500 acres or at least 10 percent of the land proposed to be included in the district. Criteria used to assess the viability of a proposed agricultural district include “soil, climate, topography, other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated

¹ Although New York requirements pertaining to agricultural lands are preempted by the Interstate Commerce Commission Termination Act of 1995 (PL 104-88), the Project applicant has agreed to voluntarily meet those requirements where it deems it appropriate and feasible to do so.

² New York State Department of Agriculture and Markets. Agricultural Districts. Accessed on March 21, 2012 from <http://www.agmkt.state.ny.us/AP/agsservices/agdistricts.html>.



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New York State Agricultural Districts near the Project Site
Figure 4.4.14-1

trends in agricultural economic conditions and technology, and such other factors as may be relevant.”

Federal protection for agricultural land is provided by the Farmland Protection Policy Act (FPPA), codified at Public Law 97-98, 7 USC § 4201. Projects that are completed by a federal agency, or with assistance from a federal agency, are required to comply with the provisions of the FPPA. The intent of the FPPA is to “minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.”³

As defined in the FPPA, federal programs include undertaking, financing, or assisting construction improvement projects, or acquiring, managing, or disposing of federal land. The FPPA does not apply to privately owned or non-federal land such as railroad right-of-way. As defined in the federal regulations implementing the FPPA (7 CFR § 658.1), the term “federal program” does not include federal permitting for activities on private or non-Federal lands.⁴

For federal programs, the FPPA requires identification of adverse effects to the preservation of farmland, consideration of alternative actions, as appropriate, that could lessen the adverse effects, and assurance that federal programs are administered to be compatible with state and local units of government and private programs and policies to protect farmland. The Natural Resources Conservation Service (NRCS) of the USDA is the agency responsible for implementing the provisions of the FPPA.

FPPA protects agricultural land based on soil type and other criteria, without regard for whether it is currently farmed, on the basis of soils mapping and classification conducted by the NRCS. Under the FPPA, farmland is classified in three categories:

- **Prime farmland**, defined as land with “...the best combination of physical and chemical characteristics for producing food, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion...;”
- **Unique farmland**, defined as “land other than prime farmland that is used for production of specific high-value food and fiber crops...;” and
- **Farmland of statewide or local importance**, defined as land “other than prime or unique farmland, that is of statewide or local importance for the production of food feed, fiber, forage, or oilseed crops.”

FPPA-protected farmland does not include land that is within or committed to urban development or water storage, or land that occurs in an existing right-of-way purchased on or before August 4, 1984. Disturbances that have altered previously mapped areas of farmland include construction of roadways, transmission lines, and other industrial, commercial, and residential development.

As set forth in the FPPA regulations at 7 CFR § 658.1, a federal agency may determine whether a site is farmland as defined in § 658.2(a) or the agency may request that NRCS make such a determination. The regulations provide criteria to be used in making the determination, including 1) land evaluation criteria using USDA soil maps; and 2) site assessment criteria, which take into account other factors that affect the suitability of the land for protection as farmland.

³ USDA – Natural Resource Conservation Service (USDA-NRCS). Farmland Protection Policy Act. Accessed on March 21, 2012 from <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/alphabetical/fppa>.

⁴ http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1042432.pdf

4.4.14-3 EXISTING CONDITIONS

The Project site is an existing and proposed rail right-of-way and bridge. The existing right-of-way and bridge have been actively used for rail transportation since 1851, with updates in design and construction through the 1940s (see Chapter 2, “Project Context”). The Project site also includes three parcels of New York State parkland and one parcel of privately owned land contiguous with the existing right-of-way. This land is largely forested habitat, with a dirt road that crosses the existing right-of-way, and open or disturbed land bordering the existing right-of-way. There is no active farming being undertaken on any land that is proposed to be part of the Project site.

4.4.14-3-1 State Farmland and Agricultural Districts

The Project site is not within any designated New York State agricultural districts. Several designated districts are located in the vicinity of the Project site (see **Figure 4.4.14-1**). The closest New York State agricultural districts are located approximately 200 feet north of the Project site’s eastern extent in Livingston County and approximately 600 feet west of the Project site’s western extent in Wyoming County.^{5,6} The adjacent agricultural district in Livingston County is separated from the Project site by a public roadway, while the agricultural district in Wyoming County is separated from the Project site by forested parkland. The Project Site is not contiguous with farmland within any New York State agricultural district.

4.4.14-3-2 Federal Farmland

As shown in **Figure 4.4.14-2**, some areas of the Project site—including existing rail right-of-way, areas of Letchworth State Park to be acquired for the Project, privately owned land to be acquired for the Project, and land to be transferred from Norfolk Southern to Letchworth State Park—are shown on USDA soil survey maps as prime farmland or farmland of statewide importance. In total, an estimated 4.63 acres of the Project Site are shown on the soils survey maps as prime farmland and 2.10 acres are shown as farmland of statewide importance. However, as shown in the figure, most of this land is either part of the existing railroad right-of-way or part of Letchworth State Park and therefore is not used for agriculture. Only the 0.7 acres of privately owned land has the potential to be used for agriculture, although it is currently not used in that way.

4.4.14-4 EFFECTS ASSESSMENT

4.4.14-4-1 No Action Alternative

State Farmland

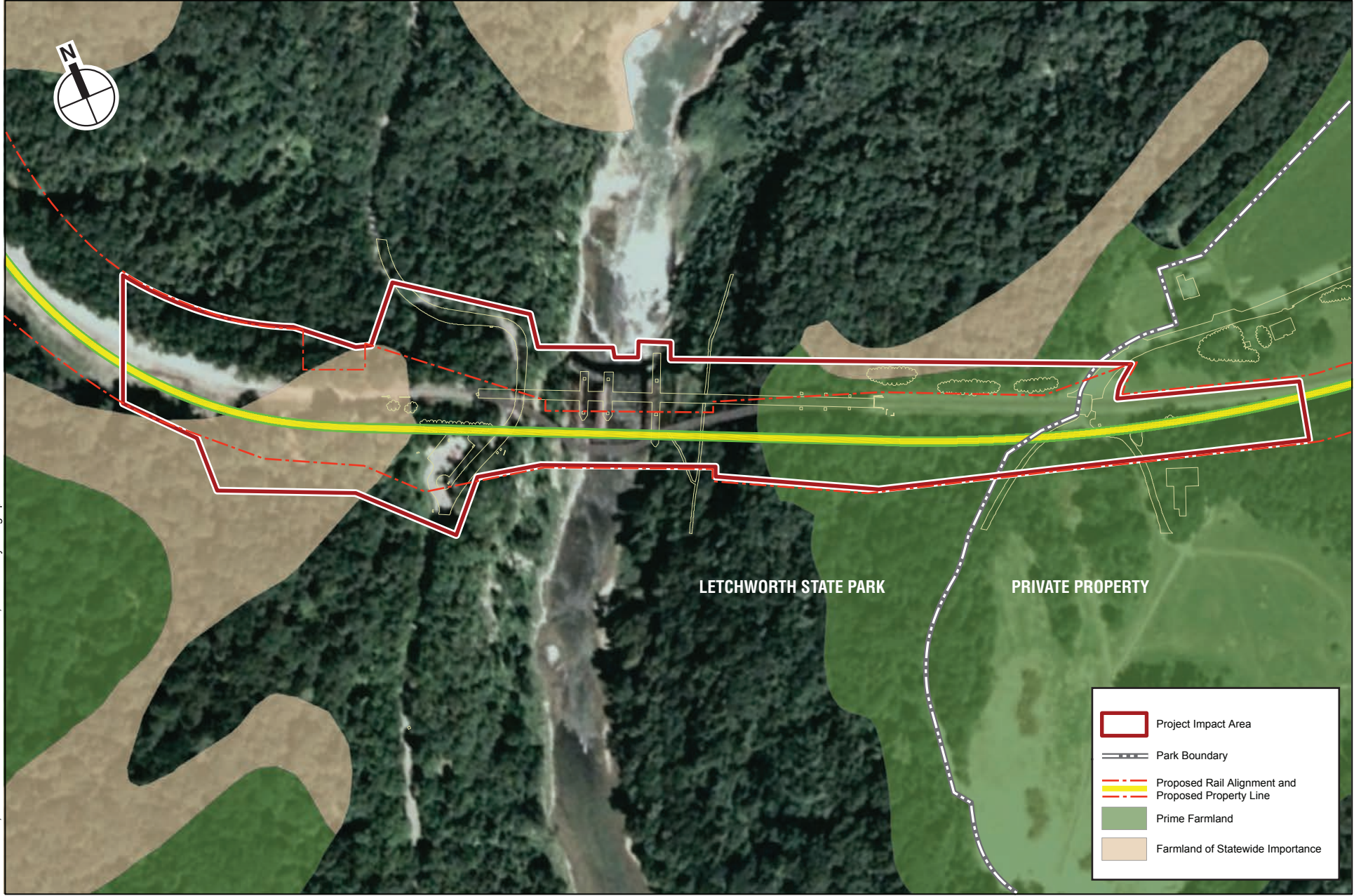
The No Action Alternative would not involve the use of any New York State farmland.

Federal Farmland

Under the No Action Alternative, Project activities would not convert any existing prime farmland or farmland of statewide importance to a nonagricultural use.

⁵ Wyoming County Planning & Development Department (WCPDD). 2005. Wyoming County Agricultural Development and Farmland Protection Plan. Final Report, Volume 1.

⁶ ACDS, LLC. 2006. Technical Report: Livingston County Agricultural and Farmland Protection Plan. July 2006.



0 400 FEET
SCALE

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USDA Mapped Farmland—Prime Farmland and Farmland of Statewide Importance
Figure 4.4.14-2

4.4.14-4-2 Preferred Alternative

State Farmland

The Project site is not located within a New York State agricultural district. Therefore, the Preferred Alternative would not involve the use of any farmland subject to regulation under New York law.

Federal Farmland

Under the Preferred Alternative, the land to be acquired for the relocated right-of-way includes land that is indicated on USDA soils surveys as prime farmland and farmland of statewide importance. However, as noted above, the FPPA does not apply to federal permitting for activities on private or non-federal lands. Therefore, the FPPA does not apply to the Preferred Alternative. Moreover, no land within the Project site is presently farmed, and most of the area of the Project site that is mapped as farmland soils is either existing rail right-of-way or located within New York State parkland. Therefore, the Preferred Alternative would not result in an impact to farmland.

4.4.14-5 SUMMARY OF MITIGATION

The Project would not result in an impact to farmland and therefore no mitigation is required.